

**REMARKS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-11 are pending.

The outstanding Office Action rejects claims 1-11 under 35 U.S.C. 102(b) as anticipated by Matsumoto et al. (U.S. Pat. No. 5,828,636). Applicant respectfully traverses the rejection.

To establish anticipation of claims 1-11 under 35 U.S.C. § 102(b), the Office Action must show that each and every feature recited in claims 1-11 is either explicitly disclosed or necessarily present in Matsumoto. See M.P.E.P. § 2131 (8th ed.).

Claim 1 recites an optical disk apparatus for recording and reproducing data on and from an optical disk having a signal-recording surface comprising, among others, control means for <sup>(1)</sup>setting an initial focus value at a point where an evaluation function generated by an evaluation-function generating means is <sup>(2)</sup>minimal or maximal, for setting an observation point deviating from the point where the initial focus value is set, and for <sup>(3)</sup>correcting the initial focus value in accordance with changes in the evaluation function at the observation point.

The Office Action asserts that "Figs. 1-7 . . . show an optical disk apparatus for recording and reproducing data on and from an optical disk having a signal-recording surface comprising . . . control means (see controller 111 and circuit 112) for setting an initial focus value at a point where the evaluation function generated by the evaluation-function generating means is minimal or maximal, for setting an observation point deviating from the point where the initial focus value is set, and for correcting the initial focus value in accordance with changes in the evaluation function at the observation point." Applicant respectfully disagrees.

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Matsumoto does not disclose, at least, the function of setting an observation point deviating from a point where an initial focus value is set and correcting the initial focus value in accordance with changes in the evaluation function at the observation point, as recited in claim 1. In Matsumoto, "with various changes of the target point, the quality of the reproduced signal at each of the changed target points is evaluated," "[t]hen the target point of the focus shift mechanism is set to a point where the best quality signal is attained . . ."

Col. 2, lines 1-5. Nowhere does Matsumoto disclose at least a means for setting an observation point deviating from the point where the initial focus value is set, and for correcting the initial focus value in accordance with changes in the evaluation function at the observation point, as recited in claim 1.

Since Matsumoto fails to teach each and every one of the elements in the combination of claim 1, Applicant respectfully submits that Matsumoto does not anticipate claim 1 under 35 U.S.C. § 102(b). Accordingly, Applicant respectfully requests withdrawal of this rejection. Claims 2-8 depend on claim 1 and therefore are not anticipated by Matsumoto. Independent method claim 9, although of different statutory class, includes recitations similar to those in claim 1 discussed above. For at least the reasons given above with respect to claim 1, Applicant respectfully requests that the rejection of claim 9 under 35 U.S.C. § 102(b) be withdrawn. Accordingly, Applicant respectfully requests that claims 1-9 be allowed.

Claim 10 recites an optical disk having a signal-recording surface that is placed within a focal depth of a light spot applied on the signal-recording surface by an optical head, during focusing control, said disk having a servo region on the signal-recording surface and an evaluation-function recording area provided at a prescribed part of the servo region, for recording evaluation functions that are applied to correct a focus value for use in a focusing control.

The Office Action alleges that “Figs. 1 and 3-5 . . . show an optical disk . . . (see Fig. 3) having a servo region on the signal-recording surface . . . and an evaluation-function recording area provided at a prescribed part of the servo region, for recording evaluation functions that are applied to correct a focus value for use in the focusing control.” Applicant respectfully disagrees. Figs. 1 and 3-5 do not show at least an optical disk having a servo region on a signal-recording surface and an evaluation-function recording area provided at a prescribed part of the servo region, for recording evaluation functions that are applied to correct a focus value for use in a focusing control, as recited in claim 10. Nowhere does Matsumoto disclose at least an optical disk having an evaluation-function recording area provided at a prescribed part of a servo region.

Since Matsumoto fails to teach each and every one of the elements in the combination of claim 10, Applicant respectfully submits that Matsumoto does not anticipate claim 10 under 35 U.S.C. § 102(b). Accordingly, Applicant respectfully requests withdrawal of this rejection. Claim 11 depends on claim 10. For at least the reasons given above with respect to claim 10, Applicant respectfully requests that the rejection of claim 11 under 35 U.S.C. § 102(b) be withdrawn. Accordingly, Applicant respectfully requests that claims 10 and 11 be allowed.

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In view of the foregoing remarks, Applicant respectfully submits that each and every one of claims 1-11 defines patentable subject matter, and that the application is in condition for allowance. Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Respectfully submitted,

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